

EXHIBIT A

Page 1

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13 VIDEOTAPED DEPOSITION OF JONATHAN SAMET, M.D.
14 LOS ANGELES, CALIFORNIA
15 TUESDAY, JULY 11, 2017

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16

BOOK NO. 221700

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1	I N D E X (continued)
EXHIBITS:	
3	NUMBER DESCRIPTION PAGE
4	Exhibit 14 Article entitled "Patient 182 Warning Excess Heat: The Effects on Orthopedic Operating Room Ventilation Performance" by Kumar G. Belani, Mark Albrecht, Paul McGovern and Christopher Nachtsheim, Ph.D.
5	
6	Exhibit 15 Article entitled "Forced-air warming blowers: An evaluation of filtration adequacy and airborne contamination emissions in the operating room" by Mark Albrecht, Robert L. Gauthier, M.D., Kumar Belani, Mark Litchy, M.E. and David Leaper, M.D.
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8	Exhibit 16 Article entitled "Arthroplasty, Do forced air patient-warming devices disrupt unidirectional downward airflow? By A.J. Legg, T. Cannon and A.J. Hamer 186
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10	Exhibit 17 Article entitled "Arthroplasty, Forced-air patient warming blankets disrupt unidirectional airflow" by A.J. Legg and A.J. Hamer 188
11	
12	Exhibit 18 Email from Mark Albrecht to 189 Andrew Legg, M.D., Scott Augustine and Christopher Nachtsheim dated September 10, 2010
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14	Exhibit 19 Email from Mark Albrecht to Mike 197 Reed and Paul McGovern dated July 9, 2010
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1 on behalf of the plaintiffs from Ciresi Conlin.
 2 THE VIDEOGRAPHER: Thank you.
 3 THE REPORTER: Would you raise your right
 4 hand.
 5 THE WITNESS: (Complies.)
 6 THE REPORTER: Do you so state under
 7 penalty of perjury that the testimony you shall
 8 give in your deposition shall be the truth, the
 9 whole truth, and nothing but the truth?
 10 THE WITNESS: Yes, I do.
 11 ***
 12 JONATHAN SAMET, M.D.,
 13 having been duly administered an oath
 14 in accordance with CCP 2094, was
 15 examined and testified as follows:
 16 ***
 17 EXAMINATION
 18 BY MR. GORDON:
 19 Q Good morning, Dr. Samet.
 20 A Good morning.
 21 Q As you know from our brief introduction a
 22 moment ago, my name is Corey Gordon. And I'll be
 23 asking you some questions today about the expert
 24 opinions you proffered in the multidistrict litigation
 25 pending.

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1 LOS ANGELES, CALIFORNIA; TUESDAY, JULY 11, 2017
 2 10:57 A.M.
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 4 ***
 5 THE VIDEOGRAPHER: This is the start of
 6 tape labelled Number 1 of the videotaped
 7 deposition of Dr. Jonathan Samet in re Bair Hugger
 8 Forced Air Warming Products Liability Litigation
 9 in the United States District Court, District of
 10 Minnesota, Case Number 15-2666(JNE/FLN).
 11 This deposition is being held at
 12 601 South Figueroa Street, Suite 2500,
 13 Los Angeles, California, on Tuesday, July 11 of
 14 2017 at approximately 10:58 a.m.
 15 My name is Jordan Leads from TSG
 16 Reporting, Incorporated, and I'm the legal video
 17 specialist.
 18 The court reporter is Dorien Saito in
 19 association with TSG Reporting.
 20 Will counsel please introduce yourselves.
 21 MR. GORDON: Corey Gordon on behalf of
 22 the defendants 3M Alizant. Also with me today is
 23 Mordecai Boone, the in-house counsel #M as well as
 24 Professor Jonathan Borak, experts.
 25 MS. CONLIN: Jan Conlin and Mike Sacchet

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1 So you've had your deposition taken several
 2 times before; is that correct?
 3 A I have in the past, yes.
 4 Q And you've testified as an expert witness in
 5 litigation before; is that correct?
 6 A That's correct.
 7 Q Now, I know you've testified as an expert in
 8 several cases involving the claims being made against
 9 the tobacco industry.
 10 Is that correct?
 11 A That's correct.
 12 Q Have you testified as an expert or offered --
 13 well, strike that.
 14 Have you testified as an expert in any cases
 15 involving anything other than tobacco-related claims?
 16 A To my recollection, solely tobacco.
 17 Q And have you offered opinions maybe that
 18 didn't lead to you ever having to give a deposition or
 19 testimony in court outside of the tobacco arena?
 20 A I would suspect if I looked back across a
 21 long career, I've had lawyers contact me about a
 22 variety of matters. At most these resulted in
 23 conversations but nothing further.
 24 Q I'm guessing that you've probably been
 25 frequently asked by lawyers to serve as a consultant

<p style="text-align: center;">Page 34</p> <p>1 Q Did you -- do you know if you had occasion to 2 look at any of the exhibits that were marked at the 3 Augustine deposition? 4 A I don't know. 5 Q Well, let me be more specific. 6 Do you recall when you saw this Augustine 7 paper that you brought up that you said you saw maybe 8 ten days ago, when you looked at it, did -- did you 9 look -- did anything trigger a thought in your mind 10 that "Gee, this looks like something I've already" -- 11 "at least part of something that I've already seen 12 before"? 13 A Not specifically, no. 14 Q That appeared to be like brand-new material? 15 A (Nodding head.) Yes. 16 Q So as you sit here today, do you have any 17 information about the background of how that Augustine 18 study came to be prepared, the underlying data, any -- 19 any -- any information about it other than what was 20 represented by Dr. Augustine in the publication 21 itself? 22 A To my -- to my memory, my -- my understanding, that paper is based on reading it. 23 Q Has that paper had any impact on your opinions? 24</p>	<p style="text-align: center;">Page 35</p> <p>1 A I regard the paper as another piece of 2 observational evidence that provides an estimate of 3 risk of deep joint infection associated with the Bair 4 Hugger device versus the comparison. 5 Q You -- ultimately, your opinion in -- the -- 6 the sort of the bottom line general opinion was that 7 you concluded that the -- based on your 8 epidemiological expertise, that the Bair Hugger -- use 9 of the Bair Hugger in orthopedic surgery is a 10 substantial contributing cause to the development of 11 periprosthetic joint infection; is that right? 12 A That's the last sentence of my report, page 17. 13 Q I want to ask about this phrase "substantial contribution cause." 14 Is that a concept that's used in the field of epidemiology? 15 A Well, I think there are a number of different approaches taken to describe causation, strength of causation, contribution to cause. There's -- so I -- it's -- it's a word that I have seen used or a phrase that I've seen. 16 Q It's not a phrase that you use, though; right? 17 A I think it would depend on the context.</p>
<p style="text-align: center;">Page 36</p> <p>1 If -- this refers to the magnitude of excess risk. So 2 it's a description based on the odds ratio of the 3 strength of association. 4 Q You've written or co-authored hundreds of -- 5 of papers and studies that looked at odds ratios, 6 attributable risk, and things like that, and drawn 7 causal conclusions; right? 8 A In -- in -- in various activities and not 9 specifically in the context of my papers. I've worked 10 on reports and other expert documents that had causal 11 conditions. 12 Q Would it surprise you that not one of your 13 publications has ever used the phrase "substantial 14 contributing cause"?</p> <p>15 A I -- I'm not sure what the basis for your 16 statement is, but... 17 Q Would you -- would it surprise you that if 18 you were to search everything that you've written, 19 that the phrase "substantial contributing cause," that 20 exact phrase, never appears in anything that you've 21 authored or co-authored? 22 A I really don't -- don't -- just don't have an opinion. 23 Q Well, wouldn't you agree that -- that the notion of something being a substantial contributing</p>	<p style="text-align: center;">Page 37</p> <p>1 cause is not something that -- that you, at least in 2 your professional activities as an epidemiologist, 3 have looked at or -- or used as a reference point? 4 MS. CONLIN: Objection as to form -- 5 THE WITNESS: Well -- 6 MS. CONLIN: -- it mischaracterizes his 7 testimony. 8 THE WITNESS: Well, again, I think in 9 terms of the question of causation, there are 10 two -- two issues. 11 One is, Does an agent cause whatever the 12 outcome is that's being considered? 13 And the second is, What's the magnitude 14 of its contribution to causation? 15 So certainly I've written about both 16 aspects of causation; the question of Is an agent 17 causal? And then second, What is its 18 contribution? 19 BY MR. GORDON: 20 Q Well, what constitutes a substantial 21 contributing cause as opposed to a contributing cause 22 that isn't substantial? 23 A Well, you know, again, I don't have strict numerical criteria. 24 But here I think the basis for the</p>